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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,711	06/23/2003	Baychar	BAY-710-02	5750
7590 07/27/2005 MATTINGLY, STANGER & MALUR, P.C. ATTORNEYS AT LAW SUITE 370 1800 DIAGONAL ROAD ALEXANDRIA, VA 22314			EXAMINER MATZEK, MATTHEW D	
			ART UNIT 1771	PAPER NUMBER

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/600,711	Applicant(s) BAYCHAR,	
	Examiner Matthew D. Matzek	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 and 24-31 is/are pending in the application.
- 4a) Of the above claim(s) 23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 and 24-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/4/04, 7/14/04</u> . | 6) <input checked="" type="checkbox"/> Other: <u>IDS: 5/2/05</u> . |

Response to Amendment

1. The amendments dated 5/2/2005 has been accepted and entered into the Record. The amended title has been accepted. Claim 23 has been canceled.
2. The rejection of claims 2, 4-6, 9, 10, 16 and 22 under U.S.C. 103 (a) over Norton et al. (US 2002/0012784) in view of Rock et al. (US 6,602,811), claims 17-18 under U.S.C. 103 (a) over Norton et al. (US 2002/0012784) in view of Litchfield (US 6,237,251), claims 19, 21, and 23-24 under U.S.C. 103 (a) over Norton et al. (US 2002/0012784) in view of Tucker (US 5,970,629), claim 14 under U.S.C. 103 (a) over Kinlaw et al. (US 5,035,943) in view of Rock et al. (US 6,602,811), claim 26 under U.S.C 102 (b)/U.S.C. 103 (a) over Lumb et al. (US 5,162,182) and claim 3 under U.S.C. 102 (b) over Sagel et al. (US 4,482,593) have been withdrawn due to amendment. New grounds of rejection follow.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 17 and 27 recite the limitation "antimicrobial thermal moisture transfer composite...according to claim 15" in claim 17. There is insufficient antecedent basis for this limitation in the claim. Claim 17 is also rejected for including the limitation of "the selected fiber blend" in line 4. There is insufficient antecedent basis for this limitation.
4. Claims 1-17, 20, 25-27 and 30-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The limitation of "waterproof/breathable" is indefinite as it is unclear as to whether the composite is to be waterproof and/or breathable.

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5. In claim 3, the term "such " is a relative term, which renders the claim indefinite. The term "such as" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably appraised of the scope of the invention. It is unclear to Examiner if the instant limitation is or is not directed to wool and lyocell fibers. The group is also an improper Markush group as it is unclear to Examiner if all synthetic fibers would meet the instant claim or only polyester and acrylic fibers. The Examiner suggests using a proper Markush group.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 1, 3, 7, 8, 11, and 12 are rejected under 35 U.S.C. 102(b) as anticipated by Lumb et al. (US Patent 5,126,182).

a. Lumb et al. disclose a water vapor permeable, wind and water resistant composite fabric including a fabric substrate, a layer of a foamed water vapor porous adhesive, and a layer of fabric material for exposed use (Abstract). The exposed fabric material is preferably a layer of flocked fibers (Abstract). An adhesive barrier material is placed between the foamed adhesive and substrate layers (Abstract). The adhesive barrier is breathable (col. 3, lines 35-38). The foamed adhesive layer is water vapor permeable allowing the article to be breathable (col. 4, lines 15-25). The Examiner takes the position that the foam is necessarily open-celled in as it is breathable and water vapor permeable. The flock fibers are formed of nylon, cotton, rayon, acrylic, polyester, wool, or a combination thereof (col. 5, lines 7-12). The fabric substrate is a knit fabric suitable

for apparel. The fabric substrate may be formed from a natural or synthetic fiber or blend of polyester, acrylic, wool, cotton, nylon, etc. (col. 3, lines 3-12). The fabric substrate is suitable for exposed use and is necessarily waterproof and breathable in order to create an article that is water vapor permeable but prevents water and wind infiltration (Abstract and col. 3, lines 3-5). The Examiner takes the position that the fabric substrate operates as a moisture transfer material due to its compositional make up. The limitation of a "shaped" fiber is met by the use of synthetic fibers, which are necessarily shaped during their creation. The limitation of thermal flocked fibers is directed to a process limitation.

b. The presence of process limitations on product claims, in which the product does not otherwise patentably distinguish over prior art, cannot impart patentability to the product. *In re Stephens*, 145 USPQ 656.

c. Once the Examiner provides a rationale tending to show that the claimed product appears to be the same or similar to that of the prior art, although produced by a different process, the burden shifts to Applicant to come forward with evidence establishing an unobvious difference between the claimed product and the prior art product. *In re Marosi*, 218 USPQ 289, 292.

Claim Rejections - 35 USC § 102/103

7. Claims 25 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Lumb et al. (US 5,126,182). The invention of Lumb et al. has been previously disclosed.

a. The article of Lumb et al. comprises open-cell foam and as such it possesses reversible enhanced thermal properties. Any foamed material is a good heat insulator by

virtue of the low conductivity of the gas, in this case air, contained within the foam (Principles of Polymer Systems p. 362).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2 and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lumb et al. (US 5,126,182) as applied to claims 1, 7 and 8 above, and further in view of Rock (US 6,602,811). The invention of Lumb et al. is silent to the use of antimicrobial silver fibers.

- a. Rock et al. teach a composite textile for removing moisture from the skin (Abstract). The invention of Rock et al. comprises two layers of fabric, the first to facilitate the transfer of moisture from the surface of the skin and the second layer is blended with synthetic fibers treated to have antimicrobial properties (Abstract). The fibers of the applied invention have been treated with silver metal to inhibit bacterial growth and prevent body odor (col. 5, lines 30-35 and 58-61).
- b. Since Lumb et al. and Rock et al. are from the same field of endeavor, (i.e. garments directed to transferring moisture from the body's surface) the purpose disclosed by Rock et al. would have been recognized in the pertinent art of Lumb et al.
- c. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the article of Lumb et al. with the motivation of

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providing the article with antimicrobial properties as disclosed by Rock et al. (US 6,602,811).

9. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lumb et al. (US 5,126,182) as applied to claim 8 above, and further in view of Buckley (US 6,004,662). Lumb et al. is silent to the use of phase change materials for their reversible thermal properties.

a. Buckley teaches a highly flexible composite material comprising a phase change thermal storage material that may be used to heat or cool the body or act as a buffer to protect the wearer from changing environmental conditions. The composite may be used in ski boot liners, thermal socks, gloves, or a cooling blanket (Abstract).

b. Since Lumb et al. and Buckley are from the field of endeavor, (i.e. articles of clothing that are resistant to wind and water, but should be moisture vapor permeable), the purpose disclosed by Buckley would have been recognized in the pertinent art of Lumb et al.

c. It would have been obvious at the time of the invention was made to a person having ordinary skill in the art to modify the article of Lumb et al. with phase change materials with the motivation to more effectively and efficiently store thermal energy within the article of clothing.

10. Claims 15 and 20 are rejected under 35 U.S.C. 103(a) as obvious over Norton et al. (US Patent Application Publication 2002/0012784) in view of Litchfield et al. (US Patent 6,237,251).

a. Norton et al. teach a multi-layer composite footwear upper comprising a first layer of thermoplastic foam, a second layer of thermoplastic urethane, preferably in the form of a film and a third layer of mesh set in between the two thermoplastic layers

(Abstract). The mesh cloth material may be formed from felt, wool, fur, hair, polyester, nylon, cotton, acetate, or acrylic and is necessarily breathable due to its structural nature (col. 2, lines 4-6). The limitation of a "shaped" fiber is met by the use of synthetic fibers, which are necessarily shaped during their creation.

b. The applied patent states that disclosed invention is not limited to the three layer laminate and any number of layers can be used depending upon the desired properties of the final product and the mesh layer maybe replaced with a nonwoven layer (col. 4, lines 10-12 and 23-26). The Examiner takes that position that an additional set of a thermoplastic foam and nonwoven layers maybe added to the already present foam layer, nonwoven and film layers to create a 5 layer substrate, comprising foam, nonwoven, foam, nonwoven, and film. The additional layers serve to provide additional water resistance, thermal protection, and abrasion and wear resistance (col. 4, lines 23-32). All of the layers are necessarily breathable as the needlepunching is taught as a means to adhere the layers of the invention (col. 4, lines 38-58). Norton et al. disclose the use of polymeric foams, however is silent as to the cellular nature of said foams.

c. Litchfield et al. disclose a shoe with a foot conforming support member. This support member comprises a conventional open-celled cushioning foam (col. 6, lines 1-5).

d. Since Norton et al. and Litchfield et al. are from the same field of endeavor, (i.e. shoe linings) the purpose disclosed by Litchfield et al. would have been recognized in the pertinent art of Norton et al.

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e. It would have been obvious to one of ordinary skill in the art at the time of the invention to have made the invention of Norton et al. with the open-celled foam of Litchfield et al. motivated by the desire to make the foam cushioning and more breathable.

11. Claims 16, 17 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Norton et al. (US Patent Application Publication 2002/0012784) in view of Litchfield et al. (US Patent 6,237,251) as applied to claim 15 above, and further in view of Norvell et al. (US 2001/0008672). The invention of Norton et al. and Litchfield et al. are silent to the use of antimicrobial silver fibers.

a. Norvell et al. teach a novel flocked water and wind resistant garment that is breathable (Abstract and claim 49). The flocked garment provides for antimicrobial materials to be added to the flocked fibers thereby making the fibers antimicrobial.

b. Since Norton et al. and Novell et al. are from the same field of endeavor, (i.e. garments directed to transferring moisture from the body's surface) the purpose disclosed by Norvell et al. would have been recognized in the pertinent art of Norton et al.

c. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the article of Norton et al. with the motivation of making said article antimicrobial.

d. Claim 17 is rejected as the limitation of a "composite formed by pouring mechanical frothed foam including the selected fiber blend over the breathable polymer mesh is merely a process limitation and does not create a patentably different article from the that of independent claim 15. Claim 27 is rejected as the invention of Norton et al.

comprises cellular foam. Cellular foam necessarily possesses reversible thermal properties thereby rejecting claim 27.

12. Claim 13 is rejected under 35 U.S.C. 103(a) as obvious over Norton et al. (US Patent Application Publication 2002/0012784) in view of Litchfield et al. (US Patent 6,237,251) as applied *supra*, in further view of Lumb et al. (US 5,126,182). The article of Norton et al. is silent as to the use of flock fibers as an outer layer.

a. An alternative embodiment provides for an outer layer of cloth material attached to a thermoplastic foam followed by another cloth layer (col. 4, lines 38-59). In this instance the thermoplastic foam functions as an adhesive layer. The cloth layer may be woven or nonwoven of synthetic or natural fibers (col. 4, lines 38-45). The Examiner takes that position that an additional layer of thermoplastic foam may be added to the fabric/foam/fabric article to create a four (4) layer substrate. An additional layer of thermoplastic foam would provide additional water resistance, thermal protection, and abrasion and wear resistance (col. 4, lines 23-32). The article of Norton et al. is silent as to the incorporation of flock fibers for the outer fabric layer.

b. The article of Lumb et al. comprises a water vapor permeable, wind and water resistant composite fabric including a fabric substrate, a layer of a foamed water vapor porous adhesive, and a layer of fabric material for exposed use (Abstract). The exposed fabric material is preferably a layer of flocked fibers (Abstract).

c. Since Norton et al. and Lumb et al. are from the same field of endeavor, (i.e. breathable composites for garments), the purpose disclosed by Lumb et al. would have been recognized in the pertinent art of Norton et al.

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d. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the article of Norton et al. with the motivation of making the article more aesthetically pleasing.

13. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Norton et al. (US 2002/0012784) and in view of Litchfield et al. (US Patent 6,237,251) as applied to claim 15 above, and further in view of Buckley (US 6,004,662). Norton et al. is silent to the use of phase change materials for their reversible thermal properties.

a. Buckley teaches a highly flexible composite material comprising a phase change thermal storage material that may be used to heat or cool the body or act as a buffer to protect the wearer from changing environmental conditions. The composite may be used in ski boot liners, thermal socks, gloves, or a cooling blanket (Abstract).

b. Since Norton et al. and Buckley are from the field of endeavor, (i.e. articles of clothing that are resistant to wind and water, but should be moisture vapor permeable), the purpose disclosed by Buckley would have been recognized in the pertinent art of Buckley.

c. It would have been obvious at the time of the invention was made to a person having ordinary skill in the art to modify the article of Norton et al. with phase change materials with the motivation of more effectively and efficiently store thermal energy within the article of clothing.

14. Claims 14 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Norton et al. (US 2002/0012784) and in view of Litchfield et al. (US Patent 6,237,251) as applied to

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claim 15 above, and further in view of Rock et al. (US 6,602,811). The inventions of Norton et al. and Litchfield et al. are silent with regard to the use of silver fibers.

- a. Rock et al. teach a composite textile for removing moisture from the skin (Abstract). The invention of Rock et al. comprises two layers of fabric, the first to facilitate the transfer of moisture from the surface of the skin and the second layer is blended with synthetic fibers treated to have antimicrobial properties (Abstract). The fibers of the applied invention have been treated with silver metal to inhibit bacterial growth and prevent body odor (col. 5, lines 30-35 and 58-61).
- b. Since Norton et al. and Rock et al. are from the same field of endeavor, (i.e. garments directed to transferring moisture from the body's surface) the purpose disclosed by Rock et al. would have been recognized in the pertinent art of Norton et al.
- c. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the article of Norton et al. with the motivation of making said article antimicrobial.

Double Patenting

15. Claims 18-21, 24 and 29 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 4 and 5 of U.S. Patent No. 6,048,810 ('810). Although the conflicting claims are not identical, they are not patentably distinct from each other because both the instantly claimed article and that of the applied art are directed to the same structural limitations of a breathable and waterproof outer shell with an open-celled foam backed by a nonwoven sheet, a second open-celled foam, and an inner liner.

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16. Claims 4-6, 14 and 22 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2 and 8 of U.S. Patent No. 6,048,810 ('810) in view of Novell et al. (US 2001/0008672).

- a. Norvell et al. teach a novel flocked water and wind resistant garment that is breathable (Abstract and claim 49). The flocked garment provides for antimicrobial materials to be added to the flocked fibers thereby making the fibers antimicrobial.
- b. Since '810 and Novell et al. are from the same field of endeavor, (i.e. garments directed to transferring moisture from the body's surface) the purpose disclosed by Norvell et al. would have been recognized in the pertinent art of '810.
- c. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the article of '810 with the motivation of making said article antimicrobial.

17. Claim 28 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 4 and 5 of U.S. Patent No. 6,048,810 ('810) in view of Buckley (US 6, 004,662).

- a. Buckley teaches a highly flexible composite material comprising a phase change thermal storage material that may be used to heat or cool the body or act as a buffer to protect the wearer from changing environmental conditions. The composite may be used in ski boot liners, thermal socks, gloves, or a cooling blanket (Abstract).
- b. Since '810 and Buckley are from the field of endeavor, (i.e. articles of clothing that are resistant to wind and water, but should be moisture vapor permeable), the purpose disclosed by Buckley would have been recognized in the pertinent art of '810.

c. It would have been obvious at the time of the invention was made to a person having ordinary skill in the art to modify the article of '810 with phase change materials with the motivation to more effectively and efficiently store thermal energy within the article of clothing.

17. Claims 4-6, 14 and 20 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 9-27 of recently allowed Application No. 10/352,887 ('887) in view of Novell et al. (US 2001/0008672) as applied supra.

a. Since '887 and Novell et al. are from the same field of endeavor, (i.e. garments directed to transferring moisture from the body's surface) the purpose disclosed by Novell et al. would have been recognized in the pertinent art of '887.

b. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the article of '887 with the motivation of making said article antimicrobial.

18. Claims 1-14 and 25 provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 3 of copending Application No. 10/757,454. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to use a moisture permeable adhesive to adhere the layers of the applied application in order to successfully create a moisture permeable article and physically attach the layers of the article.

This is a provisional obviousness-type double patenting rejection.

19. Claims 4-6, 14 and 20 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 9-12 and 23-24 of

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copending Application No. 10/987,162 ('162) in view of Novell et al. (US 2001/0008672) as applied supra.

This is a provisional obviousness-type double patenting rejection.

a. Since '162 and Novell et al. are from the same field of endeavor, (i.e. garments directed to transferring moisture from the body's surface) the purpose disclosed by Novell et al. would have been recognized in the pertinent art of '162.

b. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the article of '162 with the motivation of making said article antimicrobial.

20. Claims 4-6, 14 and 20 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/987,157 ('157) and 10/626,523 ('523) in view of Novell et al. (US 2001/0008672) as applied supra.

This is a provisional obviousness-type double patenting rejection.

a. Since '157 and '523 and Novell et al. are from the same field of endeavor, (i.e. garments directed to transferring moisture from the body's surface) the purpose disclosed by Novell et al. would have been recognized in the pertinent art of '157 and '523.

b. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the articles of '157 and '523 with the motivation of making said article antimicrobial.

Response to Arguments

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21. Applicant's arguments filed 5/2/2005 have been fully considered but they are not persuasive.

21. Applicant argues that the instant invention does not use the foamed adhesive or barrier material of Lumb et al. It is noted that the present claims do not preclude the inclusion of additional layers and further the Examiner interprets the foamed adhesive of the Lumb et al. reference to read on the presently claimed breathable adhesive. With regards to the manner in which the foam is formed does not contribute to its patentability.

23. Applicant argues that the instantly claimed invention does not use thermoplastic foam, but does not limit the chemical species available for said foam in the instant claims. The article of Norton et al. may be needlepunched leading to a moisture permeable article.

24. Applicant argues that Sagel and Kinlaw are not analogous to the footwear composites. The rejection upon which Sagel is based is directed to a moisture transfer composite as was claimed by Applicant in claim 3. Kinlaw and Rock are directed to antimicrobial fabrics which both read on the Applicant's "moisture transfer" composite of claim 14.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew D. Matzek whose telephone number is (571) 272-2423. The examiner can normally be reached on 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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NORCA TORRES
PRIMARY EXAMINER